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Navajo AML Reclamation/ UMTRA Department



PUBLIC FACILITY PROJECT MANAGERS

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PUBLIC FACILITY PROJECT GUIDELINES

Deadline: September 27, 2013

GUIDELINES FOR NAVAJO AML PUBLIC FACILITY PROJECTS (PFP)

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Navajo AML Reclamation/UMTRA Department
DIVISION OF NATURAL RESOURCES

GUIDELINES FOR NAVAJO AML PUBLIC FACILITY PROJECTS

SECTION I. The Navajo Abandoned Mine Lands (AML) Public Facility Projects

A. Purpose: The purpose of the AML Public Facility Projects (PFP) is to assist in implementation of priority community projects for Chapters or communities of the Navajo Nation impacted by mining, by leverage construction funds from other funding sources.

B. Public Facility Project (PFP) Funds

1. In 1994, the Navajo Nation through Navajo AML Reclamation Program ("the Program") was certified as having reclaimed all of its known abandoned coal mine sites. The Navajo Abandoned Mine Lands Reclamation Act of 1987 ("the Navajo Reclamation Act"), 18 N.N.C. § 1601 *et seq.*, as amended, the Surface Mining Control and Reclamation Act of 1977 ("SMCRA"), P.L. 95-87, 30 U.S.C. §§ 1234-1328, as amended in 2006, and the Navajo Reclamation Plan ("Plan"), authorizes the Program to use the Navajo Abandoned Mine Reclamation Fund ("Fund") for PFP, where those projects are in communities impacted by coal or other mineral mining processing practices.
2. The Program receives annual grants for PFP's through the United States Office of Surface Mining Reclamation Enforcement (OSMRE), subject to the availability of funding. The PFP funding limit for each grant is \$400,000 and the duration of each grant is three (3) years. Funding for PFP's is merit based. See Sections IV and V, *infra*.

C. Eligibility. Eligible Applicants are:

1. Navajo Nation Chapters impacted by past or present mineral mining.
2. Any Navajo Nation agency, enterprise or other Navajo Nation owned entity, any federal, state, or local agency, and any other entity or organization providing public services or programs for chapters or Navajo communities, where the applicant is acting on behalf of one or more impacted chapters, and has supporting chapter resolution(s) to that effect.

D. Category Criteria

1. Each PFP Proposal will be placed in the following categories:
 - a. **Category One (1): Projects to Mitigate Threats of Public Health and Safety.** First priority will be given to projects addressing imminent threats to human life such as existing conditions that have caused or may cause substantial physical harm to persons, property or the immediate environment.

- b. **Category Two (2): Projects Related to Basic Service and Infrastructure.** Second priority will be given to projects that meet basic human needs and improve the quality of human life, such as power lines, water line extensions, construction or maintenance of water wells and storage tanks, and road improvements.
- c. **Category Three (3): Community Service Projects.** Third priority will be given for community service projects such as recreational and cultural facilities, mining-related research facilities, projects for open-space benefits or projects which address economic development.

2. Eligible Projects:

- a. Eligible Category One and Two projects include such projects as electrical power line, water lines, sanitation facilities, transportation networks, solid waste disposal and management facilities, erosion control systems, land conservation projects, irrigation systems, etc.
 - b. Eligible Category Three projects include such projects as chapter houses, senior citizen centers, preschools, multipurpose buildings, renovation(s), repair or expansion of existing public facilities, parks, hiking and biking trails, etc.
 - c. A project must meet applicable criteria and standards from every funding source.
3. The Applicant(s) shall demonstrate local support by attaching to the application any supporting chapter resolution(s). The Applicant shall identify all partners and/or funding sources, documented by commitment letters, and, where applicable, Navajo Nation account numbers and funding verification from the Office of the Controller. The Applicant shall identify the lead agency for the project, which may be a tribal, federal, or state or local agency, or other appropriate entity.

E. Technical Assistance

- 1. Limited technical assistance will be given to Applicants and/or impacted chapter(s), subject to the availability of Program resources. Applicants or chapters who desire technical assistance from the Program shall select a chapter priority project and provide the Program with an official letter of request, a project Scope-of-Work, and a supporting chapter resolution. The following are examples of technical assistance available from the Program:
 - a. Orientation on PFP Guidelines;
 - b. Training on proposal or grant writing;
 - c. Project Administration Management practices including planning, budgets, funding, partnership, etc.;
 - d. Project Development, including contract administration and construction management, land clearances, NEPA compliance (Archaeological and Biological surveys, Storm Water Sections 401/402/404, etc.), A/E services and grant closeout procedures.

F. Unallowable Cost

1. All Funds are specifically for the use of PFP construction related activities. Examples of activities or costs that PFP funds may **NOT** be used for include the following:
 - a. The purchase of office equipment (computer hardware and software, vehicles, office furniture, etc.).
 - b. Any activity not described in the PFP Proposal, the chapter resolution, grant statement of work or award letter.
 - c. Funding of individual projects such as housing, personal properties, etc.
 - d. Personnel costs such as salary and travel expenses.
 - e. Renting office space.
 - f. Purchase of office supplies, lease of equipment, rentals and utility costs.
 - g. Cost for proposal preparation.
 - h. Maintenance and operation costs of any infrastructure or facilities constructed with PFP funds.
 - i. Land purchases or site improvement.
 - j. Improvement or purchase of private property.
2. Inclusion of any unallowable costs in project proposals may result in delays or rejection of a proposal.

SECTION II. PFP Selection Process

A. Deadline for Submitting Proposals

1. The deadline date for receipt of PFP Proposals is 5:00 pm on the last Friday in the month of **SEPTEMBER**. All documentation described in the PFP Guidelines must be received by the Program by the deadline in order for a Proposal to be considered “administratively complete”. Any material previously submitted to the Program under a prior Proposal, and which is relied on in a new Proposal, must be included with the new Proposal.
2. Applicants shall submit one (1) signed original PFP Proposal, with three (3) additional complete copies to the Window Rock AML Office, the Shiprock AML Office or the Tuba City AML Office. The Proposal may be submitted by certified U.S. Mail or other carrier, or hand delivered, but the Proposal must be received by the Program by the deadline in order to be considered.

B. Review Process of PFP Proposals after submittal

1. The evaluation, selection and ranking of proposals will be conducted as follows:
 - a. The Program will conduct an internal review and evaluation of all elements of the proposals and forward recommendations to the Project Review Committee (PRC).
 - b. The PRC will make the final review, evaluation, and ranking of proposed construction ready PFP’s. Proposals will be scored in accordance with the criteria and ranking system described herein.

- c. The PRC will forward its recommendations to the Program Director for final selection, based on the availability of funds from the Program.
- d. Final approval of all proposals selected by the Program Director shall be made by the Executive Director, Division of Natural Resources. Documentation of all approved proposals shall be provided to the Resources Committee of the Navajo Nation Council, or its successor.

SECTION III. Considerations before Writing a PFP Proposal

A. Funding Availability

1. The maximum funding limit is \$400,000 and is only available for construction ready projects. Priority will be given to proposals that are modest in scope and supported by other funding sources.
2. Before any funds are disbursed by the Program, there must be an agreement in place between the Program and the lead agency for the project.

B. Compliance with Proposed Activities

1. The Program will monitor the PFPs for compliance to assure that funds are being expended in accordance with the Scope of Work. By submitting a PFP Proposal, each applicant agrees, if funded, to provide quarterly activity and accomplishment reports. Funding shall be terminated/revoked if the project is not under contract within the second year of funding. **All projects must be completed within three years of the grant award date.**
2. All procurement and employment utilizing AML funds shall apply Indian Preference in accordance with the Navajo Preference in Employment Act, 15 N.N.C. §§ 601 *et seq.*, and the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 *et seq.*, and shall comply with all other applicable laws. Applicants who spend PFP funds inappropriately or ineffectively are subject to audit and a funding freeze, and, in the case of any criminal wrongdoing, subject to prosecution in accordance with Navajo Nation and federal laws.

SECTION IV. Proposal Requirements

A. Construction Ready Projects

1. A PFP Proposal for a construction ready project must contain each of the following six (6) elements:
 - a. Proposal Cover Sheet (Form 1)
 - b. Qualification Narrative
 - c. Project Description/Information/Land Status
 - d. Budget Information

- e. All land clearances and demonstrated compliance with the National Environmental Policy Act of 1969 (NEPA); the Navajo Nation Environmental Policy Act, 4 N.N.C. §§ 901 *et seq.*; and other applicable land use and environmental laws.
 - f. Maintenance and Operation Plan
2. Each proposal must contain the six elements above. Proposals that do not contain all mandatory elements will be deemed an incomplete proposal and will not be considered for review or selection. Chapters will be provided written notification within forty-five (45) days of the Proposal deadline date whether a proposal will be forwarded to the Project Review Committee for further review.

Element 1: Proposal Cover Sheet

- 1. Self-explanatory (Form 1 – Page 12)

Element 2: Qualification Narrative

- 1. To qualify for funding, the applicant must submit a PFP proposal that specifically includes all of the following:
 - a. Explain the need for the construction of the public facility or infrastructure project.
 - b. Identify the direct and indirect socioeconomic and other benefits to the community, including how those benefits will improve the quality of life and/or alleviate threats to the public health, safety, and property;
 - c. Include documents from Local, Tribal, State or Federal agencies regarding available funding resources and why the project is not fully funded by their agency;
 - d. Provide records of recent public meeting participation, copies of chapter resolutions, minutes, hearings, public announcements, or community support letters, etc. Include testimonials, legal notices, pictures, news clippings, etc. that indicates public support and project needs.

Element 3: Project Description/Information/Land Status

- 1. Prepare a summary of the proposal to include the following:
 - a. Describe the proposed project goals and objectives, overall timeline, plan of action, scope of work, and project milestones.
 - b. Describe how the proposed work will be accomplished and any unusual features such as designs and technological innovations. Discuss how the project will be evaluated, including ongoing inspections, etc., for quality assurance.
 - c. Identify who will be responsible for the project and construction management including a short statement of their qualifications. Include documents from the lead agency committing to carrying out the proposed project.

- d. Provide project information and relevant data including feasibility studies, adequate utilities to support new structures, project designs, specifications, and all land consents, withdrawals or right-of-way documents.
- e. Include a map of the project location and survey plat on a 7.5 minute USGS topographical map.

Element 4: Budget Information

1. Provide a detailed architectural cost estimate.
2. Provide a budget justification describing how the AML funds will be used to carry out the proposed project. The budget must be reasonable and justifiable pursuant to the project scope and plans. If other funding sources are to be utilized, indicate the percentage of each funding source of the total costs involved with written verification from the funding source. Navajo Nation budget forms should be utilized and may be obtained at the Navajo Nation Office of Management and Budget or on their website.

Element 5: Land Use, Historic Preservation, and Environmental Compliance

1. Pursuant to the National Environmental Policy Act of 1969 (NEPA), the Navajo Nation Environmental Policy Act, 4 N.N.C. §§ 901 *et seq.*, and other applicable land use and environmental laws and policies, the following compliance documents are required:
 - a. For NEPA compliance: (1) a Finding of a Categorical Exclusion (Cat Ex) which may still require an Environmental Review (ER); or (2) an Environmental Assessment (EA) with a Finding of No Significant Impact (FONSI), issued by a federal agency or by a tribal agency pursuant to a P.L. 93-638 contract; or (3) an Environmental Impact Statement (EIS), issued by a federal agency or by a tribal agency pursuant to a P.L. 93-638 contract);
 - b. Clean Water Act - National Pollutant Discharge Elimination System; or (6) Stormwater Pollution Prevention Plan (SWPPP), if applicable.
 - c. A compliance letter approving the project and indicating consultation with the Tribal Historic Preservation Officer at the Historical Preservation Department, the Navajo Department of Fish and Wildlife, and the Navajo Nation Environmental Protection Agency.
2. All applicants must obtain a compliance letter approving the project from the Tribal Historic Preservation Officer at the Historical Preservation Department, the Navajo Department of Fish and Wildlife, and the Navajo EPA.

Element 6: Maintenance and Operation Plan

1. The applicant must submit a plan outlining the future operation and maintenance of the proposed PFP, including the funding source. No funds will be granted for any maintenance and operation costs.

SECTION V. Evaluation Criteria

- A. The Program shall award and distribute the funds in an equitable manner. Proposals will be ranked and selected based on the following factors:

<u>FACTORS</u>	<u>POINTS</u>
1. Construction Readiness	0 – 60
2. Availability of-Leverage Funds and Budget	0 – 20
3. Public Participation	0 – 10
4. Maintenance and Operation Plan	0 – 10

Factor 1. Construction Ready (60 points maximum) including:

1. Qualification Narrative: Element 2 (5 points)
2. Project Description/Information/Benefit: Element 3 (10 points)
3. A/E Contract Documents and Technical Specification/Designs/Plans (20 points)
4. Environmental and Land Use Compliance: Element 5 (15 points)
5. Project/Construction Management: Element 3 (5 points)
6. Land Withdrawal/Status and Right of Ways: (5 points)

Factor 2. Availability of Leverage Funds and Budget (20 points maximum) including:

1. Chapter funding support (in-kind and otherwise).
2. Funding from other sources and how they may compliment AML funds.
3. Documentation of commitment of Federal, State and Tribal funding programs.
4. Budget Information: Element 4; Practicality and completeness of budget including description of budget items.

Factor 3. Public Participation (10 points maximum) including:

1. Procedures used to notify and involve the public in this funding request.
2. Current chapter resolution authorizing the proposed project.
3. Copies of all comments received (public meeting/hearing minutes, legal notices, public announcements, etc.)

Factor 4. Maintenance and Operation Plan (10 points maximum) including:

1. Identification of specific measures to maintain, operate and secure the PFP after construction.
2. Identification of source funds for maintenance and operation.

SECTION VI: DEFINITIONS

A. For all purposes as used in PFP procedures, the following definitions shall be applicable:

1. "Applicants": Chapters or other entities who have applied for funding pursuant to these Guidelines.
2. "Construction Ready Projects": Projects for which the Proposal shows that all related project development elements are completed, including environmental compliance documents, consultation and concurrence letters, Right of Way (ROW) acquisition, Architect & Engineers (A/E) designs, plans and cost estimates, construction contract agreement, maintenance and operation plan, etc.
3. "Cultural Resources": Any product of human activity or an object or place given significance by human action or belief and which is protected under the Navajo Nation Cultural Resources Protection Act, 19 N.N.C. §§ 1001 *et seq.*
4. "Evaluation Factor": A standard used to evaluate proposal applicants for PFP funding.
5. "Environmental Compliance Documents": Documents evidencing compliance with applicable federal and Navajo Nation environmental laws, examples of which are a Finding of a Categorical Exclusion (CX), which may still require a federal Environmental Review (ER); Environmental Assessment (EA); Environmental Impact Statement (EIS); Clean Water Act - National Pollutant Prevention Discharge Elimination System; Stormwater Pollution Prevention Plan (SWPPP), etc.
6. "Finding of No Signification Impact (FONSI)": A document issued by a federal agency after an Environmental Assessment (EA) is prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) indicating that the federal agency has determined that a proposed PFP project will not have a significant effect on the human environment.
7. "Impacted Chapters": Navajo Nation Chapters that have been directly impacted by past or present coal or other mineral mining activities. These Chapters are identified by the Program as having AML sites or active mining activities within the Chapter vicinity.
8. "Infrastructure": The basic services and installations needed for the operation or functioning of a community, such as transportation and communication system, water and power lines or public institutions including schools, post offices and chapter houses.
9. "Navajo Nation Environmental Protection Agency (Navajo EPA)": Regulatory agency within the Navajo Nation Executive Branch responsible for regulating, monitoring and enforcing certain Navajo Nation and federal environmental laws.
10. "Leverage Funds": Additional funds from other sources committed to the awarded PFP that AML is funding.
11. "National Environmental Policy Act of 1969 (NEPA)": A federal law which applies to all federal actions that have a significant impact on the quality of the human environment. All PFP projects are federal actions because they utilize federal funds.

12. "Navajo Abandoned Mine Lands Fund (AML Fund)": Funds that are generated from reclamation fees collected on current coal mining activities and deposited into the U.S. Treasury as federal funds pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA).
13. "Navajo AML Reclamation Program (the Program)": The Navajo Nation Executive Branch Program in the Division of Natural Resources authorized to administer the AML Funds.
14. "Navajo Reclamation Plan (the Plan)": A Plan adopted by Resources Committee Resolution RCF-14-01 authorizing the Program to conduct activities in accordance with applicable Navajo Nation law and federal law and regulations.
15. "Office of Surface Mining Reclamation and Enforcement (OSMRE)": The office within the U.S. Department of the Interior that is authorized by the U.S. Congress to administer the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) P.L. 95-87, and provides funding and oversight to the Program.
16. "Partner": An entity that assists another entity with a PFP by providing funding, services, etc.
17. "Project Development": Technical assistance provided by AML staff. See definition of "technical assistance," below.
18. "Project Review Committee (PRC)": A body selected by the Program consisting of qualified professional and technical members from the Program, Division of Natural Resources, Division of Community Development, and other Navajo Nation Entities, tasked with Public Facility Projects' proposal review and selection.
19. "Professional Services": A specialized service requiring assured competence in diverse principles and fields including but not limited to architectural and engineering services, construction management, environmental clearances or environmental compliance work.
20. "Public Facility Projects (PFP)": Projects funded through the AML Program pursuant to SMCRA, its associated federal regulations, the Navajo Reclamation Act, the Reclamation Plan and these Guidelines.
21. "Resources Committee of the Navajo Nation Council": The standing committee of the Navajo Nation Council with oversight of the Division of Natural Resources and its departments and programs, including the AML Program.
22. "Technical Assistance": Advice, training and other assistance provided to chapters or applicants by AML staff including orientation on PFP Guidelines, training on proposal or grant writing, Project Administration Management practices including planning, budgets, funding, partnership, etc., and Project Development, including contract administration and construction management, land clearances, NEPA compliance (Archaeological and Biological surveys, Storm Water Sections 401/402/403, etc), A/E services and grant closeout procedures.

**NAVAJO AML RECLAMATION PROGRAM
PROPOSAL COVER SHEET
Public Facility Projects**

Applicant: _____ Date: _____
 Address: _____

 Contact Person: _____
 E-mail Address: _____
 Phone Number: _____ Facsimile Number: _____
 Project Name and Description: _____

Funding Source	Amount Requested
<input type="checkbox"/> AML Fund Requested	_____
<input type="checkbox"/> Indian Health Services	_____
<input type="checkbox"/> Navajo Tribal Utility Authority	_____
<input type="checkbox"/> Other Federal Agency	_____
<input type="checkbox"/> State	_____
<input type="checkbox"/> County	_____
<input type="checkbox"/> <u>In-Kind match (Chapters)</u>	_____
<u>*Navajo Nation Funds</u>	_____

TOTAL _____

*List other Match Sources individually; provide requested amount and status for each source:

Funding Source	Amount	Status: Approved or Pending
_____	_____	_____
_____	_____	_____
_____	_____	_____

NAVAJO AML RECLAMATION PROGRAM
Completeness Review of Nomination for Public Facility Projects

Applicant:		
Date Submitted:		
Date of Most Recent Review:		
Type of Facility:		
Eligible as:	Yes	No
Related to Coal Mining:		
Related to Non-Coal Mining:		
Community Impact:		
Health and Safety:		
Basic Service:		
Community Service Projects:		
AML Funding Amount Requested:	\$	
Local Contribution to Funding	\$	
Other Sources of Funding:	\$	
Completeness (If application contains these essential items):	Yes	No
Introduction/Need		
Description/Justification of Proposed Actions		
Project Schedule		
Deliverable Products		
Proposed Budget		
Attachments - NEPA Documents	Yes	No
Biological Evaluation/NN Fish & Wildlife Concurrence Letter		
Archaeological Report/NN HPD Concurrence Letter		
Environmental Assessment/EIS, CatEx, Environ. Review		
FONSI		
Comments on project application strengths/weaknesses:		
Additional information needed for Funding Preference:		

FOR OFFICIAL USE ONLY

Reviewer

Date

NAVAJO AML RECLAMATION PROGRAM

PUBLIC FACILITY PROJECTS - EVALUATION CRITERIA

Name of Applicant: _____ Type of Project: _____

TYPE OF IMPACT:

☐ Direct impact by
past/present coal

☐ Direct impact by
past/present non-coal

☐ Other

FACTORS	SCORE
1. Construction Ready (60 max): a. How well the proposal address the need/urgency identified in the Qualification Narrative (Element 2, No. 1-a thru b) (0-5 pts) b. Project description, information, land status, goals/objectives, timeline, plan of action, scope of work, project milestones, reason(s) for approach/innovation. Element 3; 1a thru b (0-10 pts) c. Feasibility studies; Support utilities; Construction documents, Specifications, Construction cost estimates. Element 3, 1a thru d. (0-20 pts) d. NEPA Compliance: Environmental Assessment, Biological and Archeological Clearances NNEPA/HPD/NHPO/NNFW/USFW Concurrence, wetlands survey, Land withdrawal/Status of Right of Way, etc. Element 5, 1a thru c. (0-5 pts) e. Lead Agency; Project/Construction Management. Element 3, 1a thru c. (0-10 pts)	_____ _____ _____ _____ _____
2. Availability of Leverage Funds (20 max) a. Identification, commitment & percentage from other funding sources. (0-10 pts) b. Practicality, completeness of budget including description of line items. (0-10 pts)	_____ _____
3. Public Participation (10 max) a. Procedures used to notify and involve the public (0-5 pts) b. Chapter resolution authorizing the proposed project (0-5 pts)	_____ _____
4. Maintenance and Operation Plan (10 max) a. Narrative of future operation & maintenance plan (0-5 pts) b. Identification of source of funds for maintenance and operation (0-5 pts)	_____ _____
TOTAL SCORE	

COMMENTS:

Name _____

Date _____